

A. G. Contract No. KR96 1994TRN
ECS File: JPA 96-134
Project: Engineering Survey Account
Section: Sahuarita

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF SAHUARITA

THIS AGREEMENT is entered into 6 AUGUST, 1997,
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-
954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
TOWN OF SAHUARITA, ARIZONA, acting by and through its MAYOR and
TOWN COUNCIL ("the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The Town is empowered by Arizona Revised Statutes
Section 48-572 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has authorized
the undersigned to execute this agreement on behalf of the Town.

3. The Town requests the State, as agent for the Town, to
perform certain work and prepare certain documents required by
the Federal Highway Administration to qualify certain highway,
bridge and railroad grade crossing projects for and to receive
Federal funds. Such future work, consisting of, but not
specifically limited to, the review and approval of the Town
prepared environmental documents, the preparation of the analysis
requirements for documentation of environmental categorical
exclusion determinations; review of reports, design plans, maps,
and specifications; geologic materials testing and analysis;
right-of-way related activities (when specifically authorized by,
for and on behalf of the Town, and at no cost to the State) and
such other related tasks essential to the achievement of the
aforementioned objectives.

NO. <u>21780</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>08/06/97</u>
<u>Gene & Lee Hull</u> Secretary of State
By <u>Vicky Greenwood</u>

4. The only interest of the State in performing the work embraced herein is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the projects are authorized to be expended, and is acting as agent for the Town.

5. The estimated cost of the work shall be determined by procedures established in Local Government Engineer's Bulletin which is attached hereto and made a part hereof, which funds the Town shall transmit to and deposit with the State for the purpose of funding the cost of the work performed by the State. The minimum estimated cost of work for any project is \$5000.00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Subsequent to the deposit of sufficient funds by the Town, begin performance of the work that is required by the Federal Highway Administration to bring the projects to the construction stage.

b. Furnish all labor, materials, and equipment necessary to complete the work embraced herein when such resources are available.

c. Provide the Town a periodic statement of account identifying the projects for which work has been performed, the type and amount of expenditures, and the account balance. No statement will be provided if there is no activity on the account.

2. The Town will:

a. Provide the State with individual project requests to perform the necessary work on a project by project basis.

b. Deposit with the State sufficient funds for the cost of the work, all or any part of which will be used by the State to fund the cost of performing the work.

c. Solely bear the cost of the work embraced herein without State or Federal funds.

d. Insure that sufficient Town funds are available for the State to accomplish the work contemplated, and deposit with the State additional funds as may be required to complete the work. Such additional deposits will be made upon request of the State when the funds in the account have been depleted, or when the account balance is so low that funds for the cost of anticipated or ongoing work are not expected to be sufficient to cover the State's expenditures.

III. MISCELLANEOUS PROVISIONS

1. The State will not be obligated to perform the work contemplated herein or incur expenditures associated with such work when labor, materials or equipment are not available to the State.

2. The State assumes no financial obligation or liability under this agreement whatsoever. The Town assumes full responsibility for the adequacy and accuracy of environmental assessments and reports, the design, plans, specifications, reports, engineering and geological testing in connection therewith. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, or the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

3. The cost of any design or engineering work covered by this agreement is to be borne by the Town, but should some unforeseen condition or circumstance increase the cost of the work to be performed by the State in excess of the amount shown in the recital, the State shall not be obligated to incur any expenditures in excess of the Town's deposit.

4. This agreement shall remain in force and effect for a period of five years from the effective date, and will be automatically renewed for successive periods of five years, unless sooner terminated by either the Town or the State, or other competent authority.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, Arizona 85007

Town of Sahuarita
Planning Director
PO Box 879
Sahuarita, AZ 85624

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF SAHUARITA

STATE OF ARIZONA

Department of Transportation

By *Richard J. Timmer*
Mayor

By *Peter L. Eno*
PETER L. ENO
Contract Administrator


ATTEST:

By *Ann H. Parrish*
Town Clerk

RESOLUTION

BE IT RESOLVED on this 10th day of September 1996, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the with the Town of Sahuarita the purpose of establishing a preliminary engineering survey account with the State for the Town.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


for LARRY S. BONINE
Director

SAHUARITA RESOLUTION NO. 1997-24

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF SAHUARITA, ARIZONA, APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF SAHUARITA AND THE STATE OF ARIZONA PROVIDING FOR THE ADMINISTRATION OF FEDERAL FUNDS FOR A PRELIMINARY ENGINEERING SURVEY ACCOUNT FOR CERTAIN CONSTRUCTION IMPROVEMENTS.

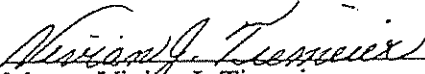
WHEREAS, the Town has determined that certain funds are available for traffic improvements, however in order to access these funds the State of Arizona, through the Arizona Department of Transportation, must administer the project and the town desires to obtain federal funding in order to assist the funding of these projects; and

WHEREAS, the State of Arizona and Town of Sahuarita desire to enter into an intergovernmental agreement providing that the state will obtain and administer the necessary federal funding for a preliminary engineering survey for certain traffic improvements for the town.

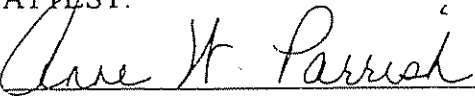
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Sahuarita, Arizona, that the Town enter into the intergovernmental agreement attached hereto as Exhibit A between the Town of Sahuarita and the State of Arizona providing for the administration of federal funds for a preliminary engineering survey for certain traffic improvements for the town.

BE IT FURTHER RESOLVED, that the Town Council hereby approves the form of the intergovernmental agreement and the Mayor is hereby authorized and directed to execute said agreement.

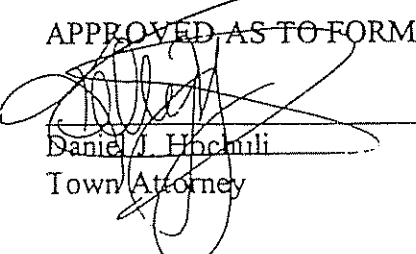
PASSED AND ADOPTED by the Mayor and Council of the Town of Sahuarita this 24th day of July, 1997.


Mayor Vivian J. Tiemeier

ATTEST:


Anne W. Parrish
Town Clerk

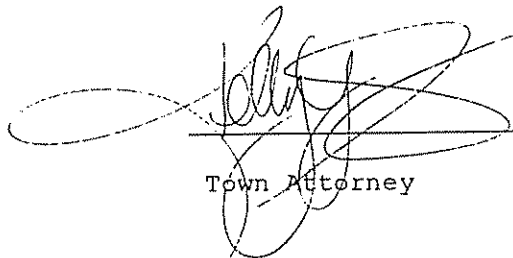
APPROVED AS TO FORM.


Daniel J. Hochuli
Town Attorney

APPROVAL OF THE SAHUARITA TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF SAHUARITA and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 24th day of July, 1997.



Town Attorney



GRANT WOODS
ATTORNEY GENERAL

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
1275 WEST WASHINGTON, PHOENIX 85007-2926

TRN Main: (602) 542-1680
Direct: (602) 542-8837
Fax: (602) 542-3646
MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR96-1994TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 30, 1997.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:c/6735